

**KDC**

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*This is all  
wrong. no basis in  
fact*

July 2, 2001

*Mel. Aschering*

Dear Mr. Nguyen:

On Thursday June 27, 2001, you and Mr. Kudarauskas met with Mr. Stout and me concerning issues relating to EPA's use of KDC properties. The following were the areas of discussion:

- 1) Use of KDC property and assets without permission
- 2) Potential violations of Montana Law relating to Stream Management Zones
- 3) Fire Suppression protocol for forested lands
- 4) Improper disposal of debris from the Parker Property
- 5) Notification to KDC of any incident that could have any adverse effect on the environment, e.g., truck rollovers
- 6) Access to KDC property by KDC representatives

**1) Use of KDC property and assets without permission**

During a visit to the mine site I observed EPA's contractor getting water, for road dust suppression, from the small pond located below the tailings dam. KDC owns the rights to all water in the Rainy Creek watershed, and anyone wishing to use any water on KDC property must obtain permission to do so. This was not done. EPA placed its water pump on top of the embankment that forms the pond, and had also cut out a portion of the embankment in order to facilitate the filling of his water trucks. Since this embankment is the home to a population of muskrats, the water spilling from the pumping action is flowing into their burrows, potentially compromising the integrity of the embankment.

KDC will allow EPA to draw reasonable amounts of water from this pond, but the pumping and filling location will be moved from atop the embankment to a more appropriate position. The contractor will immediately repair any damage done to the embankment.

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## **2) Violation of Montana Law relating to Stream Management Zones**

There are currently two issues where we believe that the EPA and its contractor has violated Montana law relating to work performed near streams and rivers. The first concerns the Rainy Creek road from Highway 37 to the top of the mine. In preparation of the road for hauling material from the Screening Plant, the contractor created a large berm of bladed material along side the road on the Rainy Creek side. Prior to creating this berm, the contractor did not install any silt fence. To date, there is still no protection from erosion into Rainy Creek. This is a potential violation of the Montana SMZ law.

At the point where Rainy Creek flows under the road, EPA created a truck runout using a bulldozer. The creation of this runout was done within a restricted area under Montana SMZ law, and represents another potential violation. We have asked EPA to improve its stewardship of the lands whenever possible, even if instances where compliance with Montana law is arguably not a requirement.

## **3) Fire Suppression Protocol for Forested Lands**

We understand that the EPA is currently working with the local Forest Service Office to establish a protocol for suppressing any fire that is started on timbered land within the KDC property boundary. Since access to KDC property is being controlled by the EPA, EPA has agreed to allow KDC personnel to insure that all side access gates on the property are unlocked and will remain unlocked until the end of the fire season. KDC also suggested that EPA perform a visual inspection of all the timbered lands for a day or so after any thunderstorm. This inspection should be relatively easy, as all of the timbered property can be seen from the mine area.

## **4) Proper location for deposition of debris from Screen Plant**

During a routine visit to the mine, we noticed that EPA was depositing debris from the Parker Property at a location different from that originally told to KDC. This location has neither available cover material nor is it adequately protected from the prevailing winds. When notified of this error, EPA stopped hauling to this location. Consequently, EPA must clean up all of the styrofoam materials that have been blown around, and the material hauled to this location will have to be covered and reclaimed. The correct location has been identified and EPA will begin using that site.

## **5) Notification to KDC of any incident that could have any adverse effect on the Environment i.e.: truck rollovers**

It has been KDC's impression that within the past month there were two truck rollovers on KDC property. Although the EPA will only confirm one such incident at this time, it highlights the issue that KDC was not informed of any incident on its property. We have no way of knowing what response actions, if any, were performed by EPA, or if there was any environmental impact, personal injury, or property damage of concern to KDC. It is agreed that KDC will provide contact telephone numbers for notification of any incident that occurs on KDC properties. KDC also requests all incident reports for activities on or around KDC property.

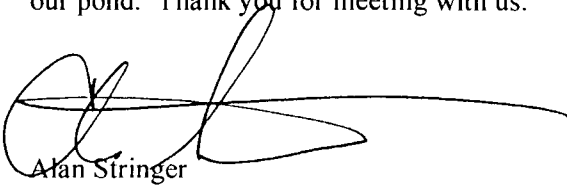
Such reports should contain information detailing when and where the incident occurred, the nature of the incident, its cause, and all response actions taken.

#### **6) Access to KDC property by KDC representatives**

KDC has received a letter from Mr. Peronard, OSC, guidelines for KDC's access to its properties. We had previously discussed these with Paul and accepted them as workable. Recent encounters with the EPA's contractor leads us to believe that MARCOR was unaware of -or do not accept- his instructions. We recognize that EPA's contractor has responsibilities regarding the safety of his operation, and we are willing to make reasonable accommodation to its concerns in addition to Mr. Peronard's guidelines. KDC will begin doing the following:

- 1) Wear an orange vest anytime KDC representatives are on the property;
- 2) Call ahead as much as possible to insure that a radio is available;
- 3) When possible, notify EPA/MARCOR in advance of a need for access to the property;
- 4) Keep sufficient hard hats in the KDC van for use when out of the van and in an EPA contractor work zone.

It is understood that the EPA will write KDC a letter requesting the use of our pump house for placement of a weather station and radio antenna as well as the use of the water from our pond. Thank you for meeting with us.



Alan Stringer  
President Kootenai Development Co.

cc: William Corcoran  
Robert Emmett  
Akos Nagy  
David Cleary  
✓ Paul Peronard